

THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Court's order whether the case is or not approved for reporting

(Chapter VIII, Rule 32(2) (b))

Description of Case

Criminal Misc. Application No.861 of 2001

AND

Criminal Misc. Application No.805 of 2001

AND

Criminal Misc. Application No.860 of 2001

AND

Criminal Misc. Application No.804 of 2001

AND

Criminal Misc. Application No.803 of 2001

Date of decision :-24.03.2006

A.F.R. (Approved for Reporting)

~~Not approved for reporting~~

Date :- 24.03.2006

Initials of Judge

Note :- Bench Reader will attach this at the top of the first page of the judgment when it is put up before the Judge for signature.

HIGH COURT OF UTTARANCHAL, AT NAINITAL

Criminal Misc. Application No.861 of 2001

1. Brij Nandan Maheshwari
S/o Dharam Kirti
Firm Maheshwari & Com.
Chowk Bazar, Pithoragarh
 2. Hari Ballabh Sharma, Firm
M/s Hari & Company, Siltham
Pithoragarh
 3. P.R. Sharma
Assistant Manager Sales
31 Basant Lok, Basant Vihar
New Delhi
(Nominee) of Manufacturers Food
Specialties Ltd.
Connaught Circus, New Delhi
- Applicants
- Versus

1. State of Uttaranchal
 2. Food Inspector, Mobile Food Squad
Kumaun, Garhwal Division
- Respondents

AND

Criminal Misc. Application No.805 of 2001

M/s Food Specialties Ltd.
M-5 Connaught Circus
New Delhi – 110001

.....Applicants

Versus

State of Uttaranchal

.....Respondents

AND

Criminal Misc. Application No.860 of 2001

Sh. Khila Nand S/o Sri R. D. Zukaria
Shopkeeper Loha Ghat
Tehsil Champavat
District Pithorgarh

.....Applicant

Versus

1. State of Uttaranchal
 2. Food Inspector
Pithoragarh
- Respondent

AND

Criminal Misc. Application No.804 of 2001

M/s Food Specialties Ltd.

M-5A, Connaught Circus

New Delhi – 110001

.....Applicant

Versus

State of Uttaranchal

.....Respondent

AND

Criminal Misc. Application No.803 of 2001

M/s Food Specialties Ltd.

M-5A Connaught Circus

New Delhi – 110001

Through Mr. Purvez Billimoria

Legal Executive

.....Applicant

Versus

State of Uttaranchal

.....Respondent

Sri Rajesh Batra learned Advocate and Sri Hari Mohan Bhatia
learned counsel for the revisionists.
Sri Rajeev Mohan learned A.G.A.

Hon'ble J. C. S. Rawat, J.

1. Since there is a common question of law involved in all the petitions, therefore, all the aforesaid cases have been heard together and are being disposed of by the single judgment.

2. Criminal Misc. Application Nos.861/2001 and No.860/2001 have been filed for quashing the proceedings in criminal case No.108/1990 & Case No. No.259/1989 respectively under section 7/16 of the Prevention of Food Adulteration Act pending before the Chief Judicial Magistrate, Pithoragarh.

3. Criminal Misc. Application No.805/2001 and No. 803/2001 have been filed for quashing the proceedings in Case No. 1379/1988 & Case No.672/1989 respectively

under section 7/16 pending before the Chief Judicial Magistrate, Nainital.

4. Criminal Misc. Application No.804/2001 has been filed for quashing the proceedings in Case No.451/1989 under section 7/16 pending before the Chief Judicial Magistrate, Chamoli.

5. Brief facts of Criminal Misc. Application Nos.861/2001 are that on 25.12.1989 the Food Inspector took the sample of Maggi Noodle and its taste maker from the applicant-Brij Nandan Maheshwari after taking necessary formalities. Then, the Food Inspector sent the said sample to the Public Analyst for examination and it was reported that the taste maker contained mono-sodium glutamate, but this fact was not mentioned in the declaration on the label. Consequently, the article of food did not comply with the requirements of the Prevention of Food Adulteration Act and the Rules made thereunder and was found adulterated within the meaning of the Act. After the receipt of this report, the Chief Medical Officer granted sanction for prosecution of the accused persons. Thereafter, a complaint was filed before the Magistrate by the Food Inspector alleging therein that the accused persons had committed the offence as defined under Rule 32 and 37A(ii) of the said Rules which is punishable under section 16 of the Food Adulteration Act. It was alleged that these noodles were vegetarian.

6. In Criminal Misc. Application No.805/2001, the Food Inspector inspected the shop of Masud Ahmed and took three packets of Maggi Noodles weighing 100 grams each. These packets were manufactured by M/s

Food Specialties Ltd. The Food Inspector sent the said samples to the Public Analyst for examination and it was reported that the test for mono-sodium glutamate in tastemaker position showed positive but its presence was not declared on the label. After the receipt of this report, the Chief Medical Officer granted sanction for prosecution of the accused. Thereafter, a complaint was filed before the Magistrate by the Food Inspector. It was alleged that these noodles were vegetarian.

7. In C482 No.860/2001, the Food Inspector took the sample of packets of Maggi Noodles and its Masala taste maker. Then, the Food Inspector sent the said sample to the Public analyst for examination and it was reported that the Masala taste maker contained mono-sodium glutamate, but this fact was not mentioned in the declaration on the label and consequently, the article of food did not comply with the requirements of the Prevention of Food Adulteration Act 1954 and the Rules made thereunder and was found adulterated under the provision of the P.F.A. Act. After the receipt of this report, the Chief Medical Officer granted sanction for prosecution of the accused. Thereafter, a complaint was filed before the Magistrate by the Food Inspector alleging therein that the accused had committed the offence as defined under Rule 32A and 37A of the said Rules which is punishable under section 16 of the Food Adulteration Act. It was alleged that these noodles were vegetarian.

8. C482 No.803/2001 pertains to the non-vegetarian noodles. In this case, the Chief Food Inspector inspected the shop of Masud Ahmed and during his inspection he took the samples of 9 packets of Maggi (Chicken taste maker). Then, the Chief Food Inspector

sent the said sample to the Public Analyst for examination and it was reported that the test for mono-sodium glutamate was found positive and the presence of mono-sodium glutamate was not declared by the manufacturer on the label and thus violated the provisions of the Rules 32 & 37A of the Rules framed under the P.F.A. Act. After the receipt of this report, the Chief Medical Officer granted sanction for prosecution of the accused. Thereafter, a complaint was filed before the Magistrate by the Chief Food Inspector. It was alleged that these noodles were non-vegetarian.

9. C482 No.804/2001 also pertains to the non-vegetarian noodles. In this case, the Food Inspector inspected the shop of Ashok Kumar and during the inspection he took the sample of Maggi Noodles Chicken. Then, the Food Inspector sent the said sample to the Public analyst for examination and it was reported that the taste maker portion showed mono-sodium glutamate positive but it was not declared on the label. After the receipt of this report, the Chief Medical Officer granted sanction for prosecution of the accused. Thereafter, a complaint was filed before the Magistrate by the Food Inspector. It was alleged that these noodles were non-vegetarian.

10. Feeling aggrieved by the said prosecutions, the aforesaid petitions have been filed before this Court.

11. Heard Sri Rajesh Batra and Sri Hari Mohan Bhatia learned counsel for the applicants and Sri Rajeev Mohan learned A.G.A. and perused the record.

12. Learned counsel for the applicants contended that Chapter 6 of the Prevention of Food Adulteration Rules 1955 beginning from Rule 32 to 43 pertain to the packing and labeling of the food articles. There is nothing in these Rules which requires the declaration about the mono-sodium glutamate to be made on the label. It was pointed out the Rule 32 prescribes all what should be mentioned on every label of packed food. Mono-sodium glutamate is a taste enhancer and it does not fall in any of the categories which requires its addition to any food articles mentioned on the label. He further pointed out that mono-sodium glutamate is found in the onion etc. as a natural phenomenon. He further pointed out that Rule 64(b) of the Rules made under the Food Adulteration Act specifically permits the use of mono-sodium glutamate and it also contains the limitation and restrictions of its use. He further pointed out that only restriction on the use of mono-sodium glutamate in the food article like Maggi Noodles is that it should not exceed the prescribed quantity. It was also pointed out that the report shows that no quantitative test was performed by the public analyst and the same was declared 'adulterated' without holding any quality test. The report of the public analyst does not show that the mono-sodium glutamate was added in the said article. As such, mere presence of mono-sodium glutamate does not make the article adulterated. Learned counsel for the applicants pointed out that the prosecution against the applicants is liable to be quashed and the complaint does not disclose the offence of Food Adulteration Act. In case of Maggi Noodles Chicken, the labeling as provided under Rule 42(s) is required. Whereas the case of vegetarian articles, no such label is required under any of the Rules.

13. Learned counsel for the applicants further pointed out that the said Rule has been changed by virtue of the amendment of G.S.R. 101E dated 18.02.1992 w.e.f. 19.8.1992 as amended by subsequent G.S.R. 11.03.1996. It was further pointed out that the said amendment was made on the basis of the recommendations of the Committee constituted under section 3 of the Food Adulteration Act. He further pointed out that the Committee had recommended that the old provisions should be deleted and the new should be added in view of the difficulties enumerated in its report. It was pointed out that no methodology was available for differentiation between the natural occurring and added glutamate in the food. It was also noted that food items generally contain mono-sodium glutamate arising out of the protein and free glutamate which may exceed the total limit of one percent. It is also admitted to the parties that in case of non-vegetarian noodles i.e. C482 Nos.803/2001 & No.504/2001 the provisions of old Rule 42(s) was applicable. According to the old Rule, the applicants were required to fulfill the condition as laid down under the old Rule. However, the learned counsel for the applicants contended that new subordinate legislation by amending the said Rule 42(s) is an ex-poste facto legislation and it is beneficial to the manufacturer and in view of the said amendment it is not an offence punishable under section 7/16 of the P.F.A. Act. He further pointed that the said notification by which the said Rule 42(s) was amended is not retrospective, but it is prospective. Learned counsel for the applicants pointed out that the amendment in the Rules was made with the recommendations of the Committee and the

Committee was of the view that there is a defect in the subordinate legislation and the legislation was amended accordingly. The benefit of the said amended rule may be provided to the cases pending on the enforcement of the said amended Rule 42. Learned A.G.A. pointed out that the offence was punishable under the Rule 32 & 37 and the Rules clearly emphasize that the ingredients used in the product should be described on the label. He further pointed out that mono-sodium glutamate was available in the sample and that was not displayed on the label. As such, it is a violation of Rule 32 of Food Adulteration Rules, therefore, the offence is also punishable apart from the violation of Rule 42(s).

14. Before dealing with the contentions of the parties, I would like to discuss the position of law on this subject. Under Article 20 of the Constitution of India, no person will be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence. But an ex-post facto law which only mollifies the rigour of a criminal law does not fall within the said prohibition. If a particular law makes a provision to that effect, though retrospective in operation, it will be valid. The question whether such a law is retrospective and if so, to what extent depends upon the interpretation of a particular statute, having regard to the well settled rules of construction. The statutes had to be seen with regard to the language and particularly in the criminal statutes with a more rational regard to the aim and intention of the legislature. It is unquestionably right that the distinction should not altogether be erased from the judicial

mind , for it is required by the spirit of our free institutions that the interpretation of all statutes should be favourable to personal liberty, and this tendency is still evinced in a certain reluctance to supply the defects of language, or to eke out the meaning of an obscure passage by strained or doubtful influence. The effect of the rule of strict construction might almost be summed up in the remark that, where an equivocal word or ambiguous sentence leaves a reasonable doubt of its meaning which the rules of interpretation fail to solve, the benefit of the doubt should be given to the subject and against the legislature which has failed to explain itself. But it yields to the paramount rule that every statute is to be expounded according to its expressed or manifest intention and that all cases within the mischiefs aimed at are, if the language permits, to be held fall within its remedial influence.

15. The Hon'ble Supreme Court has held in **Rattan Lal Vs. State of Punjab 1965(1) Cri. L.J. p/360** that :-

“Even so the statute affects an offence committed before it was extended to the area in question. It is, therefore, a post facto law and has retrospective operation. In considering the scope of such a provision we must adopt the rule of beneficial construction as enunciated by the modern trend of judicial opinion without doing violence to the provisions of the relevant section.”

16. In that case, the accused was convicted by the trial court prior to the enforcement of the First Offenders Act. When the appeal was pending the said Act was made enforceable. The question was that as to whether the

benefit of said Act can be given to the accused though the offence relates to the period when this Act was not enforceable. In that case, the Hon'ble Supreme Court extended the benefit of First Offenders Act to the accused. Perusal of the said judgment reveals that the phraseology used in the notification and the Act was wide enough to enable the High Court to extend the benefit of this Act and to make such an order. It is also pertinent to mention here that the said Act does not challenge the quantum of sentence, but only introduces a provision under a different Act to reform the offender. There was no reason why the legislature should have prohibited to exercise such power even if the case was pending against the accused at one stage or other in the High Courts. The said judgment was came up for consideration before the Hon'ble Supreme Court in **Dayal Singh Vs. State Rajasthan 2004(5) SCC p/721**. The Hon'ble Supreme Court while interpreting the judgment has held that the phraseology of the section was wide enough to enable the appellate court or the High Court to made such an order under the new Act. The Hon'ble Supreme Court has also held that an ex-post facto law which only mollifies the rigour of a criminal law does not fall within the said prohibition and if a particular law made a provision to that effect, though retrospective in operation, it will be valid. The High Court had the jurisdiction to exercise the power at the appellate stage to extend the benefit of such Act at any stage. If a particular statue provides an Act to be done in a particular manner then that Act would be done accordingly. If the law is silent then the court has the power to extend the benefit. If the law also permits to mollify the rigour of a criminal law does not fall within the said prohibition. The decisions delivered in Dayal

Singh (supra) and Rattan Lal (supra) have been considered by the Constitution Bench of the Apex Court in **Pratap Singh State of Jharkhand & another 2005 (3) SCC p/551** in which a question before the Apex Court came for consideration whether the Juvenile Justice (Care & Protection of Children) Act 2000 would be applicable in cases where proceedings were initiated under the Juvenile Justice Act 1986 and same was pending when the Act 2000 had come into force on 1.4.2001. The distinction between the Juvenile Justice Act 1986 (*hereinafter referred as '1986 Act'*) and the Juvenile Justice (Care & Protection of Children) Act 2000 (*hereinafter referred as '2000 Act'*) is that under the 1986 Act a juvenile means a male Juvenile who has not attained the age of 16 years and a female juvenile who has not attained the age of 18 years. In the 2000 Act no distinction has been drawn between the male and female juvenile. The limit of 16 years in the 1986 Act has been raised to 18 years in the 2000 Act. Section 20 of the 2000 Act deals with the special provision in respect of pending cases and begins with a non obstinate clause. The sentence "notwithstanding anything contained in this Act, all proceedings in respect of a juvenile pending in any court in any area on the date on which this Act came into force" has great significance. The proceedings in respect of a juvenile pending in any court referred to in section 20 of the Act are relatable to proceedings initiated before the 2000 Act came into force and which are pending when the 2000 Act came into force. The term "any court" would include even ordinary criminal courts. If the person was a 'juvenile' under the 1986 Act the proceedings would not be pending in criminal courts. They would be pending in criminal courts only if the boy had crossed 16

years or the girl had crossed 18 years. This shows that section 20 refers to cases where a person had ceased to be a juvenile under the 1986 Act but had not yet crossed the age of 18 years then the pending case shall continue in that court as if the 2000 Act has not been passed and if the court finds that the juvenile has committed an offence it shall record such finding and instead of passing any sentence in respect of the juvenile shall forward the juvenile to the Board which shall pass orders in respect of that the juvenile. There is a specific provision under the above Act that the benefit of said Act would only be provided to those delinquents and juvenile who were below 18 years of age on 1.4.2001. Thus, the provision of this Act was prospective. The Hon'ble Supreme Court had held that the remedial statute would not apply in the pending proceedings even though it is beneficial legislation. It was further held that it has no retrospective effect and it would only apply to those under-trial accused, who had not completed 18 years of age on 1.4.2001. Thus, this beneficial legislation was not found applicable to other delinquents. The entire law was discussed in the said judgment.

17. In the case of **P.P. Fathima Vs. State of Kerala 2003 (8) SCC p/726**, 750mg of brown sugar was recovered from the possession of the accused and the accused was convicted by the trial court as well as by the High Court for a period of 10 years and a fine of Rs.1 lakh was imposed on him. In that case, the recovery was made on 3.8.1999. During the pendency of the appeal, a notification dated 19.10.2001 was issued by the Government making a distinction between a 'small quantify' and 'commercial quantity'. The

recovered quantity was exempted as per the notification. The argument was advanced before the Hon'ble Supreme Court that the recovery of 750mg of brown sugar was made from the possession of the accused and by virtue of new notification issued under the Act, the same cannot be treated as a commercial quantity and could only be for personal consumption. The Hon'ble Supreme Court held that the notification dated 19.10.2001 would not be applicable in the case because the notification was issued after the date of incident. Therefore, the benefit of the 'small quantify' was not given to the accused. It was not disputed that the said notification was a prospective. It was not disputed that the said Rule was amended after the date of occurrence. It was also not disputed that there was an ambiguity in the Rules and in the notification with regard to the prospectively. In view of the above decisions, the Apex Court has held that the said Rules are not retrospective and it cannot be held that it is an ex-post facto legislation.

18. Learned counsel for the applicants relied upon the decisions i.e. **Municipal Corporation of Delhi Vs. Mai Ram @ Bhaya Ram 1974 Prevention of Food Adulteration Cases p/19, Sunder Lal Vs. Municipal Corporation of Delhi 1974 Prevention of Food Adulteration Cases p/21, B. L. Kohli Vs. Delhi Administration 1987(2) C.L.R. p/324, Prem Chand Vs. State of Haryana 1993(3) Recent Criminal Repts p/617 and M/s Lucas Indian Service Ltd. Vs. State of Andhra Pradesh 1999 Cri.L.J. p/1647.** In view of the decisions of the Apex Court, the judgment referred above are distinguishable on facts and law.

19. In the instant cases, the prosecution has filed the complaints for violation of Rule 32 and 37 of the Food Adulteration Act. The prosecution has not stated that there is any violation of Rule 42. Rule 32 and 37 of the Food Adulteration Act provide as under:-

“32. Package of food to carry a label:- Every package of food shall carry a label and unless otherwise provided in these rules, there shall be specified on every label:

- (a) the name, trade or description of food contained in the package;
- (b) the names of ingredients used in the product in descending order or their composition by weight or volume as the case may be:

Provided that in the case of artificial flavouring substance, the label may not declare chemical names of the flavours, but in the case of natural flavouring substances or natural identical flavouring substances, the common name of flavours shall be mentioned on the label.

37. Labels not to contain false or misleading statements:- A label shall not contain any statement, claim, design, device, fancy name or abbreviation which is false or misleading in any particular concerning the food contained in the package, or concerning the quantity or the nutritive value or in relation to the place or origin of the said food:

Provided that this rule shall not apply in respect of established trade or fancy names of confectionery, biscuit and sweets, such as, barley ginger beer or gold spot or any other name in existence in international trade practice.”

20. Learned counsel for the applicants relied upon the decision of the Hon'ble Supreme Court in **T. Barai Vs. Henry Ah Hoe AIR 1983 SC p/150** in which the Food Inspector lodged a complaint against the accused under section 16(1)(a) read with Section 7 of P.F.A. Act as amended by the West Bengal Amendment Act. The said amendment was in force in the State of West Bengal on the date of commission of offence. On 01.04.1976 the Parliament enacted the Prevention of Food Adulteration (Amendment) Act, 1976 which reduced the maximum punishment of life imprisonment as provided by the West Bengal amendment of section 16(1)(a) to three years' imprisonment. The accused was charged and convicted prior to the enforcement of the Central Act. Thereafter, the question arose whether the benefit of Central Act may be given to the accused or not. Ultimately, the benefit of Central Act given to the accused holding that the amended Act did not create any new offence. It only mollifies the rigour of the criminal law. It does define what is an offence. It has been further held that where the offence is already defined and it only amends the rigour of the criminal law it would not be any ex-post fact law. It is settled both on authority and principal that when a later statute describes an offence created by an earlier statute and imposes a different punishment, or varies the procedure, the earlier statute is repealed by implication. The Hon'ble Apex Court also observed that to illustrate, if Parliament re-enact section 302 of the IPC, 1860 and provide that the punishment for an offence of murder shall be sentence for imprisonment for life instead of the present sentence of death or imprisonment for life, then it cannot be that the courts would still award a sentence

of death even in pending cases. The Apex Court has relied upon the **State of Punjab Vs. Mohar Singh Pratap Singh A.I.R. 1955 S.C. p/84**. On 03.03.1948 an Ordinance No.7 of 1948 was promulgated by the Governor of East Punjab under section 88 of the Government of India Act, 1935, making provisions for registration of land claims of the East Punjab refugees. On 17.03.1948 one-Mohar Singh, who purports to be a refugee from West Pakistan, filed a claim in accordance with the provisions of this Ordinance, stating therein that he had lands situated within the district of Mianwali in West Punjab. Thereafter, on 01.04.1948 the said Ordinance was repealed and Act 12 of 1948 was passed by the East Punjab Legislature re-enacting all the provisions of the repealed Ordinance. The claim filed by him was investigated and It was found after enquiry that the claim made by him was absolutely false and prosecution was launched against him on 13.05.1950 under section 7 of the Act, which makes it an offence for any person to submit with regard to his claim under the Act, any information which is false. The trial magistrate convicted him. Thereafter, a reference was made to the High Court by the District Magistrate under section 438 Cr.P.C. with a recommendation that an adequate sentence may be imposed upon the accused. A preliminary objection was raised before the High Court, Simla that it was not within the competence of the trying magistrate to convict him at all as the offence was committed under the provisions of Ordinance before the Act came into force and the prosecution was started long after the ordinance had come to an end. The High Court set-aside the conviction of the accused and the sentence imposed upon him under section 7 of the Act. Feeling aggrieved by this, the State of Punjab preferred

an appeal before the Hon'ble Supreme Court. The Apex Court has observed that the consequences laid down in section 6 of the Act will apply only when a statute or regulation having the force of a statute is actually repealed. It has no application when a statute, which is of a temporary nature, automatically expires by efflux of time. The Ordinance in the case of accused was undoubtedly a temporary statute but it is admitted that the period during which it was to continue had not expired when the Repealing Act was passed. The repeal therefore was an effective one which would normally attract the operation of section 6 of the General Clauses Act. The controversy thus narrows down to the short point as to whether the fact of the repeal of the Ordinance being followed by re-enactment would make the provision of section 6 of the General Clauses Act inapplicable to the said case. The Apex Court has held that the case of Mohar Singh would attract the operation of section 6 of the General Clauses Act. Ultimately, the Apex Court set-aside the order passed by the High Court and further held that section 11 of the Act is somewhat clumsily worded and it does not make use of expressions which are generally used in saving clauses appended to repealing statutes; but as has been said above the our consideration is whether the Act evinces an intention which is inconsistent with the continuance of rights and liabilities accrued or incurred under the Ordinance and this question has to be answered in the negative.

21. In view of the above legal position, the law emerges out that if a later statute again describes an offence created by a former statute and affixes a different punishment, varying the procedure, the earlier

statute is repealed by the later statute. Article 20 of the Constitution of India contains a limitation against an ex-post facto law providing for a greater punishment and has also no application where the offence described in the later Act is not the same as in the earlier. In case, the subsequent statute extend the rigour of the punishment it cannot be extended to all the pending matters because it will hit the provisions of the Article 20 of the Constitution of India. If the punishment which is defined under the earlier statute has been changed and altogether the nature of the offence has been changed by the new statute, the provisions of the later statute would not be applicable in the pending cases. Thus, the amendment of Rule 42 by a later statute completely change the Rule and it takes out the offence under the Food Adulteration Act. In other words, it can be said that the definition of the offence has been changed. It is admitted to the parties that in case Rule 42 stands as it was before the amendment, the allegation constitute an offence under the old Rule. If the amendment is taken into account the said allegation does not constitute an offence. As such, the definition of the offence had been changed by the subsequent statute by amending Rule 42(s). If the definition of the offence has been changed, the provision of the amended statute cannot be made applicable to the offences committed under the old statute. By amending Rule 42(s) of the Food Adulteration Act, the statute does not mitigate the rigour of the criminal law.

22. Learned counsel for the applicant contended that mono-sodium glutamate is a natural occurring in the food articles and the public analyst had not reported that it has been added subsequently. The report of the

public analyst also reveals that the label does not contain that the mono-sodium glutamate was present. It was contended that there is no method to evaluate whether the mono-sodium glutamate is added by the manufacture in an article or it is a natural occurring. It is a well settled that at the stage of cognizance the trial court is not to examine and assess in detail the materials placed on record by the prosecution nor is it for the court to consider the sufficiency of the materials to establish the offence alleged against the accused persons. At the stage of cognizance, the court is to examine the materials only with a view to be satisfied that a prime-facie case of commission of offence alleged has been made out against the accused persons. The High Court under section 482 Cr.P.C. should not interfere with the order of the trial court unless there are strong reasons to hold that in the interest of justice and to avoid abuse of process of the court the cognizance against the accused needs to be quashed. **{Radhey Shyam Vs. Kunj Behari 1989 Supp(2) SCC 572, State of M.P. Vs. S.B. Johari 2000(2) SCC 57: 2000 SSS(Cri) 311, State of Delhi Vs. Gyan Devi & others 2000 SCC(Cri) 1486}.**

23. Learned counsel for the applicants has tried to convince me that it is not possible to distinguish the added mono-sodium glutamate and natural occurring. The arguments were also advanced that there is no methodology to separate the natural occurring and added mono-sodium glutamate. This argument was advanced on the basis of some reports and the published articles. Those materials are not part of record. This fact can only be decided after production of evidence at the time of trial. This Court cannot discard

the entire prosecution on the basis of the reports and articles published in books. If this court evaluate the articles and reports at this stage, it would amount to sit as trial court while hearing the petition under section 482 Cr.P.C. At this Juncture, I would like to refer the judgment of the Apex Court reported in **State of Delhi Vs. Gyan Devi & others 2000(8) SCC p/239** in which the trial court framed the charges against the accused. Thereafter, the High Court quashed the charge under section 482 Cr.P.C. and directed the trial court to examine the evidence of doctor and thereafter the trial court was directed to ascertain after recording the evidence of doctor whether the charge could be framed or not. The trial court examined the evidence of four doctors and came to the conclusion that the charges could be framed. Again the matter was came before the High Court and the High Court quashed the charge after seeing the evidence of the doctors in the light of the autopsy report and came to the conclusion that the charge under section 304/34 could not have been framed by the trial court. The Hon'ble Apex Court while allowing the appeal observed that while quashing the proceedings, the High court should have kept in mind that ones the trial is to proceed it must proceed without unnecessary inference by a superior court. The Hon'ble Supreme Court has further observed that it is also well settled that when the petition is filed by the accused under section 482 Cr.P.C. seeking for the quashing of charge framed against them the court should not interfere with the order unless there are strong reasons to hold that in the interest of justice and to avoid abuse of the process of the process of the court the charge framed against the accused needs to be quashed. Moreover, once the trial court has framed a charge

against an accused the trial must proceed without unnecessary interference by a superior court and the entire evidence from the prosecution side should be placed on record. Any attempt by an accused for quashing of a charge before the entire prosecution evidence has come on record should not be entertained sans exceptional cases. It was further held that the High Court has erred in its approach to the case as if it was evaluating the medical evidence for the purpose of determining the question whether the charge under sections 304/34 IPC framed against the accused was likely to succeed or not. This question was to be considered by the trial judge after recording the entire evidence in the case. It was further held that the High Court cannot pre-judge the case at the stage when only a few witnesses had been examined by the prosecution.

24. In the vegetarian products, it was pointed out that Rule 32 of the P.F.A. Rules 1955 provides that the ingredients must be shown on the label. The public analyst has found that mono-sodium glutamate was available, as such the ingredients should have been mentioned on the label. The trial court will consider this aspect without being influenced with the findings of this Court.

25. In view of the foregoing discussion, I am of the view that the petitions devoid of merit and are liable to be dismissed.

All the petitions are dismissed accordingly.

(J.C.S. Rawat, J.)

Dated 24.03.2006

LSR

